VF (C.B.)
Ontario. Employment Equity Act, '93

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FOR IMMEDIATE RELEASE
DECEMBER 9, 1993

EMPLOYMENT EQUITY ACT RECEIVES THIRD READING

TORONTO -- Bill 79, the Government of Ontario's proposed *Employment Equity Act*, today received Third Reading in the provincial Legislature. This marks the final stage in the legislative process prior to proclamation -- when the bill comes into effect -- in 1994.

"This is an important day for all working people in the province of Ontario," said Minister of Citizenship Elaine Ziemba. "Since our Government took office three years ago, we have been clear about the direction we must take to put Ontario back on the road to prosperity.

"Our goal has been a society in which all people are treated fairly and equitably; a society in which all people share in our prosperity; and a society in which all people share in the work of creating that prosperity. It is through employment that people especially have an opportunity to make their contribution to society as a whole. And it is through equity in employment that society ensures the full participation of all of its people."

Bill 79 provides for equity in employment for the members of four designated groups: Aboriginal people, people with disabilities, racial minorities and women. It ensures that all individuals in Ontario's workplaces have fair access to recruitment, hiring, training and promotion opportunities.

The legislation was introduced in June, 1992, and has been the subject of extensive discussion with representatives of business, labour and the designated groups.

"We wanted to develop legislation that was fair, effective and workable," said Ms. Ziemba. "Effectiveness and workability have been the focus of various advisory groups, consultations, testing and modelling, public hearings before the Legislature's Standing Committee on Administration of Justice and the almost 700 submissions reviewed during the past two and a half years."

- more -

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A Regulation to accompany the Act will be released to guide the Ontario Public Service, broader public sector employers with more than 10 employees and private sector employers with more than 50 employees in taking the specific steps required to achieve equity and fairness in the workplace.

Working together with their employees and their employees' bargaining agents, employers will first conduct a workforce survey. Secondly, they will undertake an employment systems review to identify barriers. Finally, they will develop employment equity plans, which include qualitative measures and numerical goals, to cover a three-year period.

Different types of employers will be required to complete these steps at different times, as follows: Ontario Public Service, 12 months after proclamation; broader public sector employers with 10 or more employees, 18 months; private sector employers with 500 or more employees, 18 months; private sector employers with fewer than 500 but more than 100 employees, 24 months; private sector employers with more than 50 but fewer than 100 employees, 36 months.

The Employment Equity Commission will be formally established to support employers and monitor their progress. Under the direction of Employment Equity Commissioner Juanita Westmoreland-Traoré, who was appointed in 1991, preparatory work is already underway.

"We do not expect employment equity to be implemented overnight, just as we do not expect to see the results of employment equity overnight," said Ms. Ziemba. "Bill 79 will give us the necessary framework to work towards the successful achievement of employment equity.

"Ontarians believe in fairness and that all people who live and work here must have an opportunity to achieve their hopes, dreams and aspirations. The *Employment Equity Act* ensures that fairness is extended to every person in the labour force."

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Ontario's Employment Equity Act moves closer to becoming law

Remarks to the Ontario Legislature by
The Honourable Elaine Ziemba, Minister of Citizenship,
on Third Reading of Bill 79, the Employment Equity Act
December 9, 1993, Toronto, Ontario, Canada.

This is an important day for all working people in the province of Ontario.

Today we proceed with Third Reading of Bill 79 — the Employment Equity Act.

The purpose of this legislation is to provide equality of opportunity and equitable treatment for groups in our society who have, for far too long, faced barriers to their equal participation in the workplace — Aboriginal people, people with disabilities, members of racial minorities, and women.

But when it is implemented, Bill 79 will improve the working lives of *all* Ontarians.

Economic growth and prosperity must develop at the same time that we create a fairer and better society. They are complementary goals.... The two are, and must be, interdependent.

Since our government took office three years ago, we have been clear about the direction we must take to put Ontario back on the road to prosperity.

From the beginning, we have followed the course of Economic Renewal and Social Justice.

From the beginning, our goal has been a society in which all people are treated fairly and equitably; a society in which all people share in our prosperity; and a society in which all people share in the work of *creating* that prosperity.

Economic renewal and social justice work hand in hand.

And they are inextricably linked by employment equity.

For it is through *employment* that people especially have an opportunity to make their contribution to society as a whole.

And it is through *equity in employment* that society ensures the full participation of all of its people.

Economic growth and prosperity must develop *at the same time* that we create a fairer and better society. They are complementary goals. They support each other. The two are, and *must be*, interdependent.

How does employment equity help us achieve these goals?

By being a tool to help us make the best use of our most valuable resource — our human resources.

By being a tool we use to maximize the skills, talents, expertise and experience of *everyone* in the labour force.

By being a tool to ensure that the process of recognizing skills and capabilities is *inclusive*, and free of discriminatory barriers.

For if certain employment policies and practices prevent us from seeing and using all of

Ontario Ministry of Citizenship

the talents that are available to us, then they are *also* preventing us from realizing opportunities both at home and in markets abroad.

We can't afford to do that.

We cannot afford the economic cost; and we cannot afford the social cost. Wasted talents cost dollars and cents; wasted lives harm our entire social, political and economic fabric.

Our government is building up an investment portfolio as we work to restore and renew Ontario. We're investing in education and training. We're investing in the environment and in the province's infrastructure.

Employment equity ensures that *all* groups who make up our society can fully participate in our workplaces.

And in every case, we are investing in people.

Employment equity will help ensure that everyone will reap the benefits of these investments.

We have brought forward legislation that will make employment equity mandatory in Ontario workplaces. The Bill we are debating today is the most progressive of its kind in North America.

Certain components of it are unique: for example, the joint responsibility provisions that will bring employers and bargaining agents together to develop and plan employment equity programs.

The link between economic renewal and social justice is recognized by a number of employers, employer organizations, and trade unions in Ontario. And this is why a number of them are already putting some form of employment equity to work in their organizations.

Some employers have been required to do so because they are federally regulated companies, but they and others have clearly profited from the benefits that employment equity brings to an organization, to its employees, and to its clients and customers.

As some of these organizations told us during public hearings of the Standing Committee on Administration of Justice, employment equity *works*: it makes good business sense. You can be sure that they would not invest valuable time, money and effort in it if it did not.

Why does it work? Here's an employer's explanation: this is what Robert Sutherland, Executive Vice-President, Human Resources, for the Royal Bank of Canada says about the effect employment equity has had on his corporation:

"The entire organization wins with the infusion of new ideas, a broader perspective, better decision-making, and greater sensitivity to all the cultures and groups that we serve. We gain access to broader markets and greater insight into product development.... The effects of employment equity on the Royal Bank have been very beneficial."

And what does Mr. Sutherland answer to those who say, as some have, that employment equity threatens the merit principle?

"The merit principle is alive and well in (the) Royal Bank and other firms currently applying employment equity on a national scale... You begin by hiring the most qualified. You just extend the talent pool wider."

"You extend the talent pool wider." This is the heart of the matter. This is what employment equity is all about.

Employment equity ensures that *all* groups who make up our society can fully participate in our workplaces. So when you extend the talent pool wider you are *really* hiring, training and promoting people on the basis of merit. You are no longer overlooking the significant skills and talents that members of the designated groups have to offer. You are looking *beyond* their race, gender, or actual or perceived disability.

Achieving equity doesn't mean treating everyone in the same way. Employment equity rather means that we recognize people's *different* experiences and needs and adapt our workplace practices accordingly. So it might mean, for example, that employers implement flexible working arrangements to accommodate the different people who make up their workforces — such as working parents. By using these kind of employment equity measures, we recognize and allow for diversity in the workforce.

When you extend the talent pool wider, you improve your access to all of the available skills you may be looking for. When you have better access to available skills, you improve your ability to achieve excellence.

The Royal Bank has clearly understood this. And so have the other employers, trade unions, designated groups, and other organizations with whom we have consulted, for more than two years, in the process of developing Bill 79 and the Draft Regulation.

I want to take this opportunity to acknowledge once again the contribution that these organizations and individuals have made. For it has been considerable.

Every important piece of legislation has a long history. An incredible amount of work is involved. And people both internal and external to the public service give a significant amount of professional time, and often their own time, to its development. The commitment required, and the commitment people give, is tremendous.

The many organizations and individuals involved in employment equity have come to the table with different, complex and sometimes conflicting interests. Bill 79 has been debated vigorously. I'm in favour of this kind of debate. I think it's not only healthy, but necessary and productive.

It is almost never possible, on a public policy of this magnitude, to satisfy everyone. You go into the debate on an issue like employment equity knowing that from the start. But you have a responsibility to the people of the province to consider all perspectives and, finally, to make a decision based on what you believe it is important to achieve and what you have learned from your consultations.

As I've said many times since the beginning of the consultation process on employment equity, the government knew that we wanted to develop legislation that was fair, effective and workable. It had to be practical for the people who will implement it; and it had to achieve real results for the designated groups.

Effectiveness and workability have been the focus of our special advisory groups, our consultations, our meetings, our testing and modelling, the public hearings of the Justice Committee, and the 700 or so submissions that my ministry and the Employment Equity Commissioner's Office have reviewed. And effectiveness and workability are at the centre of the Bill we are debating in the House today.

I have to tell you that I am very proud of the Bill we are putting forward for final debate; just as I am proud to be a member of a government that has made employment equity a priority.

I think it demonstrates that we kept our promise to listen, to learn, and to be open to change.

Employment equity legislation had to be practical for the people who will implement it; and it had to achieve real results for the designated groups.

We have made amendments to Bill 79 as a result of our analysis of the issues that we heard about in our consultations, during the public hearings of the Justice Committee, and which were raised in the written submissions received by the Justice Committee. We have made changes to the Bill whenever and wher-

ever we felt such changes would improve it — that is, where they would make the Bill more effective and workable.

I want to say, once again, that we could not have been presenting this Assembly with a Bill that meets those objectives if we had not had co-operation from all of the interested groups and individuals. And I should add that all of these people have been willing to assist us and to work with us *continuously*. They have given us their input well beyond the call of duty.

The members on the other side of the House who sat on the Justice Committee have also played an important role in our deliberations. I'd like to thank those members for their valuable participation and for their support for the principles of employment equity. While I expect that they will continue to express various opinions on specific components of the Bill during Third Reading — indeed, that is their job — I have been pleased to see their acceptance of the principles behind the legislation and that they join with us in their abhorrence of any form of discrimination.

The process of co-operation and consultation that we initiated will not, of course, come to a halt once the legislation is passed. In fact, it is imperative that the government and the new Employment Equity Commission *continue* to work with employers, trade unions and designated groups. And it is equally important that all workplace partners work together if employment equity is to be successfully implemented in Ontario.

Just as partnership has been the hallmark of the development of the legislation, so too must partnership be the mechanism that makes employment equity work.

Those employers, trade unions, designated groups and other organizations that have already had experience with employment equity can be of assistance to those who have had none. These groups have expertise and knowledge that is extremely valuable.

Those who have experience with employment equity, and those who don't, will also be able to provide us, and particularly the Employment Equity Commission, with concrete, practical advice about what organizations, institutions and their employees are going to need to make employment equity effective and to implement it efficiently.

Employee education and information, for example, will be a critical component of employment equity, and employers will be assisted in this area by the Commission.

Just as partnership has been the hallmark of the development of the legislation, so too must partnership be the mechanism that makes employment equity work.

Different organizations will have different needs and will require different tools to assist them. We recognize this. And we are committed to giving the assistance that it's in our power to provide.

Because we recognize that different employers *do* have different needs and have different resources available to them, we have deliberately enabled employment equity to be phased in over time. So the Bill sets out specific timeframes for developing employment equity plans.

Let me emphasize here, because this is a common misconception, that the initial timelines are for the development of the employment equity plan — *not* for achieving the employment equity goals that employers and bargaining agents have set for themselves.

Because one of our main objectives was to have legislation that was workable, we also recognized that it must be adaptable to the many and varied industries and sectors in which Ontario employers are engaged. That is why another hallmark of the Bill is its flexibility.

Bill 79 gives employers and bargaining agents the ability to design employment

equity plans that respond to the *realities* of the communities in which they are situated; their particular sectors; their specific workforces; their own corporate cultures; and the economic circumstances in which they find themselves at any given time.

That is why the numerical goals that the Bill requires employers and bargaining agents to set are so very, very different from quotas. And it's important that we understand this difference — because it's a big difference.

We do not expect employment equity to be implemented over night — just as we do not expect that we will see the *results* of employment equity over night. But we do believe that Ontario would not achieve employment equity *without* Bill 79.

The numerical goals that employers will develop for their plans will be based on the proportion of opportunities for change in a workforce. Most important of all, they are goals the employer and the bargaining agent *set themselves* based on certain factors — such as the number of qualified people in the community. They are based on what employers can reasonably expect to achieve.

They are not quotas. Quotas are *arbitrarily* imposed by an organization — such as a government or other agency. Quotas do not take into account the *real* circumstances of a particular employer's workplace.

We do not expect employment equity to be implemented over night — just as we do not expect that we will see the *results* of employment equity over night. But we do believe that Ontario would not achieve employment equity *without* Bill 79. That is why we have brought forward employment equity legislation and why we remain committed to it.

In closing my remarks, I would like to say one more thing.

In my time in public office, I have had an opportunity to talk to people across the province. If I have learned anything in that time, it is that Ontarians are generous people who believe in fairness.

They believe in working hard to make decent lives for themselves and for their children. They are more than willing to share all of the good things that life in this province has to offer. And they truly support the notion that all who live and work here must have an opportunity to achieve their hopes, dreams and aspirations.

It is this *fundamental* belief in fairness that has given Canadians an international reputation for being a caring society.

It is one of the things that makes us who we are.

It is one of the beliefs that unites us all.

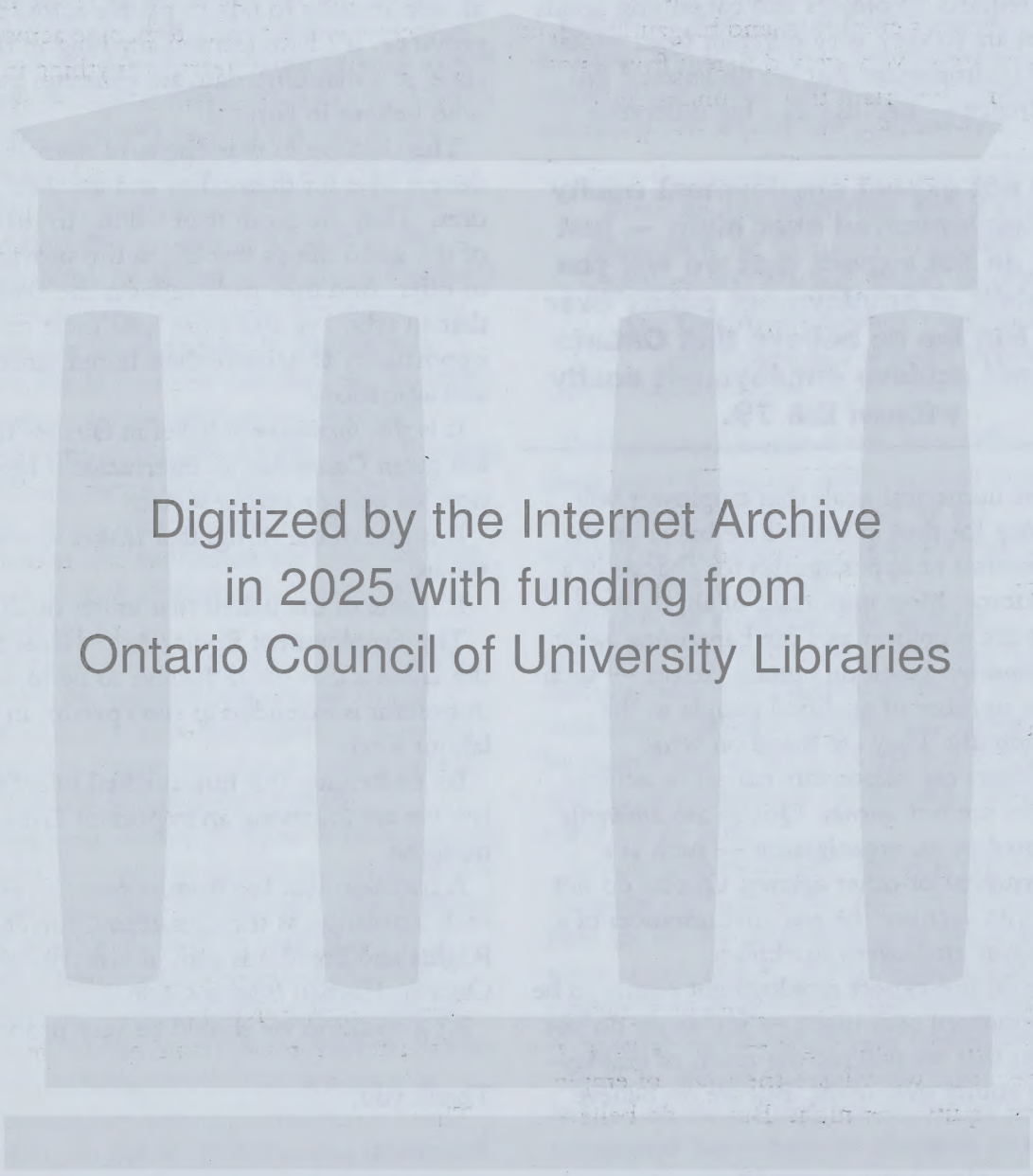
The Employment Equity Act ensures that the fairness that we all believe to be so very important is extended to *every* person in the labour force.

By enshrining this fundamental belief in law we are following an important Canadian tradition.

A tradition that has been responsible for such legislation as the Canadian Charter of Rights and Freedoms and, in Ontario, the Ontario Human Rights Code.

It's a tradition we should be very proud of.

Thank you.



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Questions and Answers on The Employment Equity Act

December, 1993

PUTTING EMPLOYMENT EQUITY INTO ACTION

1. When will Bill 79 come into effect?

The *Employment Equity Act* will come into effect when it is proclaimed in 1994.

2. When will Ontario employers have to start complying with the Act?

Different types of employers in Ontario will be required to complete employment equity plans at different times. The *Employment Equity Act* sets out the timetable for each group. The time begins with the "effective date" — the day Bill 79 is proclaimed as law in 1994.

Within the time period shown below, employers must survey their workforce, review their employment policies and practices, and prepare an employment equity plan:

- Provincial government ministries and some provincial agencies will have 12 months from the effective date;
- Broader public sector employers with 10 or more employees will have 18 months. This includes school boards, universities and colleges, hospitals and municipalities as well as other broader public sector agencies.
- Private sector employers with 500 or more employees will have 18 months;
- Private sector employers with fewer than 500 but more than 100 employees will have 24 months;
- Private sector employers with more than 50 but fewer than 100 employees will have 36 months from the effective date.

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All employers in Ontario, including the provincial government and its agencies, are covered by the Act, with these exceptions:

- employers in the broader public sector (such as municipalities, school boards, universities and colleges, and the health care system) with fewer than 10 employees;
- employers in the private sector with fewer than 50 employees;
- Police forces covered by the *Police Services Act* (which includes a regulation that requires police forces to develop and implement employment equity plans).

3. When will the Regulation to Bill 79 be completed?

The *Employment Equity Act* will have a Regulation that will provide details on definitions, procedures and other requirements.

The Regulation required for implementing the *Employment Equity Act* will be available immediately after Proclamation in 1994. Other regulations will become available, as required.

4. How has the legislation been created?

Bill 79 is the result of more than two years of development and consultation. The process began shortly after the New Democratic Party took office in the fall of 1990. Extensive consultation and many public hearings were held. Representatives of the designated groups, business and labour have all been involved. The result of all this is Bill 79.

5. Why does Ontario need this legislation?

Employment equity is important because of its impact on productivity, on encouraging wider hiring practices and the opportunity to attract a wider range of qualified candidates. Discrimination in the workplace results in adverse effects on employers and employees and higher social costs. In tough economic times, it makes sense for every employer to run as productive an operation as possible. Employment equity will help tap sources of ability and talent that have been held in check by discrimination. That will have a positive effective on economic renewal for Ontario.

EMPLOYMENT EQUITY: THE BASICS

6. What is employment equity?

Employment equity is a mechanism to ensure fair treatment for all working people. In particular, employment equity is designed to identify and eliminate different kinds of direct and indirect barriers to employment and opportunity in the workplace faced by the members of the four designated groups — Aboriginal people, people with disabilities, members of racial minorities and women.

7. Why is employment equity needed?

Research has shown that some groups of people in our society face systemic and deliberate discrimination in the workplace. In particular, four groups — Aboriginal people, people with disabilities, members of racial minorities and women — are either under-represented in the workforce or find it very difficult to move into senior or executive positions, and into a broad range of occupations, despite their qualifications. Employment equity is needed so that Ontario may have the full benefit of its human resources.

8. Who will be affected?

The *Employment Equity Act* will affect many people. Members of the four designated groups — Aboriginal people, people with disabilities, members of racial minorities and women — will be directly affected, as will employers and employees in the public and private sectors representing about 75 per cent of all workers in Ontario.

In addition, everyone in Ontario will benefit from removing discriminatory barriers and increasing opportunities. This is recognized by many businesses that already have employment equity programs and many unions that have promoted the use of those programs.

9. What is the process for putting employment equity into action?

In simple terms, there are three main steps to employment equity:

- finding out the current composition of a workforce through a workforce survey;
- looking at the policies and practices in the workplace and identifying which ones may form barriers for some people;
- planning ways to break down those barriers and give all qualified people equal opportunities in the workplace so that, finally, the composition of the workforce better reflects the composition of the community.

Each step will have a number of component parts. These will be clearly set out in the Regulation.

10. What is a barrier to employment?

There are many kinds of barriers. Some are more obvious than others. Some barriers are simply ways of doing business that are not meant to be discriminatory but do have an adverse effect on some people. For instance, advertising a position by word-of-mouth alone will effectively bar some qualified applicants who simply do not know about the opening. In another case, the stated requirements for a particular job may not have changed even though the job itself is now very different. By reviewing hiring practices and policies in the workplace, employers can identify these barriers and improve opportunities for workers.

11. What is a positive measure?

Positive measures are temporary measures or programs that actively work to overcome the effects of barriers in the workforce for members of the four designated groups. Positive measures are created to meet the needs of a particular workforce and can include many approaches, such as outreach recruitment — for example, advertising a job in an Aboriginal newspaper — helping new workers learn skills, helping current employees upgrade their skills, and mentoring — experienced employees offering guidance and support to others in the workforce.

12. Have positive measures been used before?

Yes. All the measures mentioned above and many more are already being used in workplaces across Ontario. Bill 79 will help ensure such programs will be implemented in every workforce in which they are needed. Positive measures are recognized in the Ontario *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*.

REQUIREMENTS

13. What will employers have to do?

Employers will have to conduct workforce surveys, review their workplace practices and develop an employment equity plan. They will share joint responsibility with bargaining agents in unionized workforces for doing these steps. Employers will also have to consult with their employees about the development and implementation of employment equity plans. Employers will need to inform the Employment Equity Commission about their workplace by filing a certificate after they complete their first employment equity plan, and then every three years when the plan is revised. (In the case of the Ontario Public Service, a copy of the employment equity plan must be filed.)

14. What will bargaining agents have to do?

Bargaining agents will have joint responsibility with employers to conduct the workforce survey, review employment policies and practices, and develop employment equity plans.

15. What will the provincial government have to do?

The government, as the employer of the Ontario Public Service, will need to implement employment equity in its ministries and its agencies. The Ontario Public Service will be the first group required by Bill 79 to develop and submit an employment equity plan (within 12 months of the date of Proclamation).

16. What organizations are included in the broader public sector?

The broader public sector includes employers named in the amended schedule to the *Pay Equity Act*. In general terms, that includes municipalities, colleges and universities, school boards, hospitals and other service organizations that receive public funding.

17. How will the construction industry be affected by Bill 79?

Bill 79 permits a regulation for the construction industry to be developed. That regulation will be designed to take into account the unique nature of the construction workplace and work to achieve the goals and principles of employment equity in that workplace. Consultations with the construction industry are slated to begin early in 1994.

18. Will there be special rules for Aboriginal workplaces?

Yes. The application of the *Employment Equity Act* to Aboriginal workplaces will be addressed in a regulation following consultation with representatives of Aboriginal people in Ontario.

THE EMPLOYMENT EQUITY COMMISSION

19. What will be the role of the Employment Equity Commission?

The mandate of the Commission is to further the principles of employment equity. To do so, the Commission will assist parties in the workplace to put employment equity into action, monitor the implementation and effectiveness of the Act and enforce its provisions.

The Employment Equity Commission will be formally established immediately after the legislation is proclaimed in 1994. An important part of its mandate will be to provide public education about employment equity, as well as advice and information on many aspects of planning and implementing employment equity. There will, for example, be guidelines on how to communicate with employees about employment equity, how to consult with non-unionized employees, how to undertake a workforce survey, how to approach an employment systems review and how to develop an employment equity plan in a unionized and non-unionized workplace.

This work has already begun through the Office of the Employment Equity Commissioner (OEEC). For example, the OEEC is developing a series of train-the-trainer workshops and other educational initiatives on employment equity.

20. What is the Office of the Employment Equity Commissioner?

Juanita Westmoreland-Traoré was appointed Ontario's first Employment Equity Commissioner in March of 1991. She established the Office of the Employment Equity Commissioner within the Ministry of Citizenship and, since that time, the OEEC has held extensive public consultations and met with representatives of business, labour and the designated groups. The results of these consultations contributed to the development of Bill 79 and the Draft Regulation. At the request of the Minister of Citizenship, the OEEC also created a working group on issues faced by people with severe disabilities and the Interministerial Employment Equity Committee on Francophone Issues. More recently, the OEEC established an advisory committee on public education.

When Bill 79 is Proclaimed in 1994, the Employment Equity Commission will be formally established.

21. How will the employment equity process be monitored?

Employers will file a certificate summarizing the progress they are making in achieving the goals in their employment equity plans every three years with the Employment Equity Commission. The details of what information will be required for these certificates will be included in the Regulation.

The Commission may ask an employer to submit a copy of its employment equity plan for review. If the Commission feels an employer is not living up to the terms of the *Employment Equity Act*, it can work with that employer to improve the implementation of employment equity in that workplace. The Commission may also conduct an employment equity audit of an employer.

Each year the Commission will report to the Minister of Citizenship on the progress of employment equity in Ontario. The Minister will report these findings to the Ontario Legislature.

22. How will employment equity be enforced?

The Employment Equity Tribunal will be established immediately following the proclamation of the Act. The Tribunal will act as a mediator and adjudicator and will review and enforce orders of the Employment Equity Commission, as required. The Tribunal has the power to make orders that will ensure compliance with the Act. Employers who do not comply with an order of the Employment Equity Tribunal could face a fine of up to $50,000.

THE BENEFITS OF EMPLOYMENT EQUITY

23. What are the benefits for employers?

Employment equity is a valuable human resources tool. By making the most of their current staff and by widening the range of recruitment searches, employers will have greater access to more qualified people. In addition, employment equity will help in the changing global economy. Many employers have found that by encouraging members of designated groups to join their workforce they have gained new insight into different markets and greater opportunities for their business.

24. What are the benefits for employees?

A key element of employment equity is the recognition that all employees must be given equal opportunity to apply for and obtain jobs and are treated fairly once they enter the workforce. When barriers to employment are recognized and eliminated, all workers will benefit.

25. How will seniority be affected by Bill 79?

Employee seniority rights regarding layoff or a recall to employment after a layoff are deemed under Bill 79 not to be barriers. Other employee seniority rights are deemed not to be barriers unless a Board of Inquiry under the Ontario *Human Rights Code* finds that the seniority rights are contrary to the code.

26. Some employers in Ontario already fall under the requirements of the federal contractors program. How will they be affected by Bill 79?

Officials from both levels of government are working to ensure that employers can direct their efforts to achieving employment equity. For example, efforts are under way to avoid duplication in record keeping, reporting or auditing requirements.

If you have more questions about the *Employment Equity Act*, or you would like to obtain a copy of a plain language guide to the Act, please contact the Ministry of Citizenship Information Line:

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TDD, outside Toronto, call: 1-800-387-4456
- TDD, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, or you would like to receive a copy of the OEEC newsletter, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TDD, outside Toronto, call: 1-800-663-2534
- TDD, in Toronto, call: 314-0011

If you would like to purchase a copy of the legal text of the *Employment Equity Act* contact:

Publications Ontario
880 Bay Street
Toronto, Ontario
M7A 1N8

or call **Publications Ontario**:
- Outside Toronto, call: 1-800-668-9938
- In Toronto, call direct: 326-5300

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- Outside Toronto, call: 1-800-268-7095
- In Toronto, call direct: 325-3408

The Employment Equity Consultation Process: A Backgrounder

December 1993

November, 1990

The NDP government, in its first Speech from the Throne, identifies employment equity as a priority.

March, 1991

Juanita Westmoreland-Traoré is appointed Ontario's Employment Equity Commissioner.

Summer, 1991

The Employment Equity Commissioner establishes a Consultation Advisory Committee. Membership includes representatives of designated groups, labour and business, as well as employment equity practitioners.

November, 1991

The Office of the Employment Equity Commissioner releases a discussion paper entitled "Working Towards Equality", which forms the basis for a province-wide consultation.

December, 1991 - March, 1992

The Office of the Employment Equity Commissioner conducts a public consultation consisting of public hearings, visits to community-based organizations and workplaces across Ontario, and more than 100 community meetings. Public forums are held in Windsor, London, Hamilton, Thunder Bay, Sudbury, Timmins, Ottawa, Kingston, Toronto and Scarborough. The Office receives more than 400 written briefs.

The Office works with community-based organizations, youth groups, designated groups, organized labour and small businesses to develop joint initiatives designed to encourage participation in the legislative process.

The Office also holds technical seminars to explore such issues as data collection and reporting, worker participation in employment equity planning, and compliance and enforcement.

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Meetings are held with a variety of groups within the Ontario Public Service (OPS), including the Ontario Public Service Employees Union and representatives of the designated groups.

Spring, 1992

The Minister of Citizenship, Elaine Ziemba, establishes a Technical Advisory Group composed of senior representatives of business, organized labour and designated groups.

June 25, 1992

Bill 79, An Act to provide for Employment Equity for Aboriginal People, People with Disabilities, Members of Racial Minorities and Women, is introduced for First Reading.

The Office of the Employment Equity Commissioner releases a report on its consultation process — "Opening Doors."

June, 1992, onwards

The Ministry of Citizenship and the Office of the Employment Equity Commissioner continue to meet with a wide range of individuals, organizations, associations and community groups to discuss Bill 79.

August - October, 1992

Meetings of the Commissioner's Regulations Development Advisory Group and the Joint Technical Advisory Committee on Construction Regulations are held. Chaired by the Employment Equity Commissioner, these groups advise on the development of the Draft Regulation. Members represent business, labour and designated groups.

Spring, 1993

The Minister's Technical Advisory Group continues to provide input into the legislation and the Draft Regulation; and the Minister and Deputy Minister continue their meetings with representatives of all affected groups.

During the development of the Draft Regulation, the Ministry undertakes a modelling and testing program with more than 50 employers in the public, broader public and private sectors. Employers and bargaining agents also participate in the on-site testing of portions of the Draft Regulation.

June 16, 1993

Bill 79 is introduced for Second Reading in the Legislature.

The Draft Regulation is released. Interested parties are asked to submit written briefs on the Draft Regulation to the Ministry by October 29, 1993.

July 19, 1993

Second Reading debate on Bill 79 is concluded. The Bill is ordered for Third Reading and referred to the Standing Committee on Administration of Justice.

August 16 - September 2, 1993

The Standing Committee on Administration of Justice holds public hearings on Bill 79. More than 100 interested parties make presentations to the Committee and the Clerk of the Committee receives 184 written submissions on the Bill.

The Minister and Ministry continue to meet with individuals and organizations interested in employment equity.

September 7, 1993

The Government releases a package of proposed amendments to Bill 79, based on discussion during the public hearings and an analysis of the submissions to the Standing Committee. Additional amendments are tabled throughout the Standing Committee process.

September 8, 1993

The Standing Committee on Administration of Justice begins a clause-by-clause review of Bill 79.

September 14, 1993

The Office of the Employment Equity Commissioner establishes a Public Education Advisory Committee to ensure that public education strategies and training are responsive to the needs of various communities.

October 29, 1993

The deadline is reached for written submissions to the Employment Equity Regulations Unit of the Ministry of Citizenship on the Draft Regulation to Bill 79. The Ministry receives 59 written submissions. The Draft Regulation is also discussed in 80 of the submissions received by the Standing Committee reviewing Bill 79. The Ministry begins its analysis of the submissions and continues to meet with representatives of business, labour and the designated groups to discuss their concerns.

December 6, 1993

The Standing Committee on Administration of Justice completes its clause-by-clause examination of Bill 79.

December 9, 1993

Bill 79 receives Third Reading in the Ontario Legislature. The Government announces that Proclamation of the Act — the date that it becomes effective in Ontario — will occur in 1994.

The Employment Equity Commission will be formally established and the Regulation will be released immediately after Proclamation.

Highlights of Bill 79
The Employment Equity Act

December, 1993

Bill 79 has received Third Reading in the Ontario Legislature.
The Employment Equity Act will be proclaimed — that is, come into effect — in 1994.

What will employment equity do?

The aims of Bill 79 are to:

- remove barriers to employment and opportunity in the workplace for Aboriginal people, people with disabilities, members of racial minorities and women;
- promote equal opportunities for all workers;
- help to make the most of our valuable human resources.

Who will take part?

In unionized workplaces, bargaining agents and employers will work together to survey the workforce, review employment policies and develop employment equity plans.

In non-unionized workplaces, employers will consult with employees, including those who are members of designated groups, about employment equity.

How will employment equity work?

Employees will be surveyed to see how many members of the four designated groups are currently in their workforce.

A review of the employer's employment policies will look at the rules and day-to-day practices which could be barriers to the recruitment, hiring, retention, and promotion of members of the designated groups.

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Ontario Ministry of Citizenship

An employment equity plan will be developed that sets goals and timetables and describes what the employer will do to break down the barriers and give all workers equal opportunity in the workplace.

Employment equity plans will include:

- **positive measures** - ways to assist people in the recruitment, hiring, retention, and promotion of members of designated groups, e.g., outreach recruitment;
- **supportive measures** - ways to help everyone in the workforce have equal access and opportunity, e.g., flexible hours;
- **accommodation measures** - ways to assist workers by addressing their special needs, e.g., different equipment.

The plans will also include numerical goals respecting the composition of the employer's workforce.

An employment equity plan will describe when and how different measures will be put in place. Employers must ensure that the plan constitutes reasonable progress towards achieving the principles of employment equity.

When will it happen?

The *Employment Equity Act* will be proclaimed and come into effect in 1994. The day that happens is called the *effective date.*

Not all employers will need to have their employment equity plans completed at the same time. Different types of employers will have different timelines:

- Provincial government ministries and some government agencies will have 12 months from the effective date;
- Broader public sector employers with 10 or more employees will have 18 months;
- Private sector employers with 500 or more employees will have 18 months;
- Private sector employers with fewer than 500 but more than 100 employees will have 24 months;
- Private sector employers with more than 50 but fewer than 100 employees will have 36 months from the effective date.

By their deadline, employers must survey their workforce, review their employment policies and practices, and complete an employment equity plan.

Who will monitor the progress of employment equity?

When Bill 79 comes into effect, two new bodies will be created — the Employment Equity Commission and the Employment Equity Tribunal.

The **Commission** will have a critical role as a facilitator — a source of information and advice on putting employment equity in general and the Act in particular into effect. The Commission will provide public education and guidelines for employers. This work has already begun through the Office of the Employment Equity Commissioner, Juanita Westmoreland-Traoré.

The Commission will also be responsible for monitoring the progress of employment equity across Ontario. It will receive from employers a certificate, every three years, outlining what steps an employer has taken to implement employment equity and including data so that progress can be assessed and reviewed.

The **Tribunal** will act as mediator and adjudicator. It will review and enforce orders of the Commission. It will consider and make judgements about disputes and it will respond to complaints that an employer has not lived up to its obligations under its employment equity plan. If an employer fails to comply with an order of the Tribunal, it may be prosecuted in the courts and face a fine of up to $50,000.

What is the Regulation?

Immediately after proclamation of the *Employment Equity Act*, a Regulation will be released providing details on definitions, procedures and other requirements.

How can I get more information?

If you have more questions about the *Employment Equity Act*, or you would like to obtain a copy of a plain language guide to the Act, please contact the Ministry of Citizenship Information Line:

- Outside Toronto, call: 1-800-268-5737
- In Toronto, call: 326-6224
- TDD, outside Toronto, call: 1-800-387-4456
- TDD, in Toronto, call: 326-1778

If you would like to contact the Office of the Employment Equity Commissioner for further information, or you would like to receive a copy of the OEEC newsletter, please contact:

The Office of the Employment Equity Commissioner
77 Bloor Street West, 10th Floor
Toronto, Ontario
M7A 2R9

or call the Employment Equity Information Hotline:

- Outside Toronto, call: 1-800-567-0356
- In Toronto, call: 314-0016
- TDD, outside Toronto, call: 1-800-663-2534
- TDD, in Toronto, call: 314-0611

If you would like to purchase a copy of the legal text of the *Employment Equity Act* contact:

Publications Ontario
880 Bay Street
Toronto, Ontario
M7A 1N8

or call **Publications Ontario**:

- Outside Toronto, call: 1-800-668-9938
- In Toronto, call direct: 326-5300

TDD users may order through the **Citizens' Inquiry Bureau**:

- Outside Toronto, call: 1-800-268-7095
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A Guide to Bill 79
The Employment Equity Act

December, 1993

Ontario Ministry of Citizenship

Introduction

In November, 1990, the newly-elected Government of Ontario delivered its first Speech from the Throne and outlined its priorities. The government said "we cannot afford to lose the skills and abilities of Ontario's population because of discrimination".

Since then, much work has been done to make employment equity a reality in Ontario.

Bill 79 — The *Employment Equity Act* — is not the end of this work: it is the beginning of an important new phase.

The legal text of Bill 79 is available in English and French. In addition, the Ontario Ministry of Citizenship has prepared this *Guide to Bill 79* to present, in plain language, some of the highlights of this important legislation.

As you will see in the following pages, employment equity will be achieved by employers, employees and bargaining agents working together to identify and overcome barriers in the workplace.

Employment equity provides these workplace parties with a tool to manage change in the labour force. It is a tool that ensures that organizations make the best use of all of their current and potential human resources. It achieves this goal by helping organizations look at their human resources policies, practices and procedures in order to make sure that they are *inclusive* and free of discriminatory barriers.

When the *Employment Equity Act* and the Regulation that accompanies it come into force in 1994 they will give employers across Ontario a framework to:

- remove barriers to employment and advancement in the workplace;
- promote equal opportunities and treatment;
- help to make the most of our valuable human resources by using the skills and capabilities of all the people of Ontario.

It has taken many months of consultation and development to craft this legislation. It will take commitment from employers, employees, bargaining agents, and members of designated groups to make employment equity a reality.

But the result will be provincial workplaces with equal opportunity for all. That is an achievement worth working for.

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Preamble:

Why is Employment Equity needed?

The **Preamble** to Bill 79 sets out the purpose of providing employment equity in Ontario:

The people of Ontario... recognize that people in these groups [Aboriginal people, people with disabilities, members of racial minorities and women] experience more discrimination than other people in finding employment, in retaining employment and in being promoted. As a result, they are underrepresented in most areas of employment, especially in senior and management positions, and they are overrepresented in those areas of employment that provide low pay and little chance of advancement....

The people of Ontario recognize that this lack of employment equity exists in both the public and private sectors of Ontario. It is caused in part by systemic and intentional discrimination in employment. People of merit are too often overlooked or denied opportunities because of this discrimination. The people of Ontario recognize that when objective standards govern employment opportunities, Ontario will have a workforce that is truly representative of its society.

The Preamble goes on to say that, as a result of the barriers faced by members of four groups — Aboriginal people, people with disabilities, members of racial minorities and women — they are underrepresented in many areas of employment, especially in senior and management positions, and overrepresented in jobs with low pay and few chances for advancement.

The Preamble ends with the objective of the *Employment Equity Act*: working to eliminate discrimination and to increase the opportunity of individuals to contribute in the workplace for the benefit of all the people of Ontario.

Part I (Sections 1 and 2):

The Principles of the *Employment Equity Act*

Part I presents the five principles of the Act:

- members of the designated groups have the right to be considered for employment, hired, retained, treated and promoted for jobs in a way that is free of discrimination and barriers;
- every employer's workforce, at each level and in each job category, should reflect the composition of the community;
- every employer must make sure that workers are treated in a way that is free of systemic (indirect) and deliberate barriers;
- every employer will put in place positive measures to help recruit, employ, retain and promote members of the designated groups;
- every employer will put in place supportive measures that will help recruit, employ, retain and promote members of the designated groups, and benefit the workforce as a whole.

Part II (Sections 3 – 8):

Who is Affected?

Part II defines some of the terms that are used in the legislation (such as "employer", "employee" and "bargaining agent") and identifies the four designated groups: Aboriginal people, people with disabilities, members of racial minorities and women.

Part II also describes the different classes of employers covered under the Act. It says that all employers in Ontario, including the provincial government and its agencies, are covered by the Act, with these exceptions:

- employers in the broader public sector (such as municipalities, school boards, universities and the health care system) with fewer than 10 employees;
- employers in the private sector with fewer than 50 employees;
- Police forces covered by the Police Services Act (which has its own regulation requiring police forces to develop and implement employment equity plans).

Part III (Sections 9 – 24):

Putting Employment Equity to Work

Part III is the core of the *Employment Equity Act* — what employers are required to do, what bargaining agents must do, and the outline of the employment equity process. Part III includes the timetable for preparing employment equity plans for each class of employer. (How the steps will be carried out will be described in the Regulation that accompanies the *Employment Equity Act.* The Regulation will contain the details necessary for the implementation of the Act.)

Section 9 makes clear that every employer must put employment equity into action according to an **employment equity plan** and that employers must make sure their supervisors and staff members follow the *Employment Equity Act.*

The Workforce Survey — Who is in the Workplace?

Section 10 says each employer must conduct a **workforce survey** to find out how many designated group members are in its workforce. Employees may decide whether or not they wish to answer the questions asked in the survey.

The Review of Employment Policies — Finding the Barriers

Section 11 describes the review of employment policies and practices, a process called an Employment Systems Review (ESR). Its main purpose is to identify barriers to the hiring, retention, treatment and promotion of members of the designated groups in a particular workplace. Those barriers can include terms and conditions of employment that have a negative effect on designated group members.

This section also deals with seniority rights in a collective agreement or seniority rights that are an established practice in an organization where there is no collective agreement. It makes clear that seniority rights for layoffs or a recall to work after a layoff are not to be considered barriers under the *Employment Equity Act.*

Other seniority rights are not to be considered barriers unless a Board of Inquiry, under the Ontario *Human Rights Code*, decides that a particular seniority right discriminates against members of a designated group.

The Employment Equity Plan — Equity in Action

Details on what must be in a plan and how it is to be created will be found in the Regulation to the *Employment Equity Act*. But **Section 12** sets out the key elements. An employment equity plan must show:

- how **barriers** found during an employment systems review will be removed;
- what **positive measures** will be put into action to help overcome the effects of barriers faced by designated group members. Those measures will help the recruitment, hiring, retention, treatment and promotion of members of the designated groups. Positive measures could include things like training programs, job sharing and mentoring (having senior staff give individual support and guidance to less experienced employees).
- what **supportive measures** will be put into place to help designated group members to be recruited, hired, retained, treated and promoted and which may benefit the workforce as a whole (for example, introducing flexible working hours);
- what **accommodation measures** will be used. Accommodation measures might include ways to help workers by providing appropriate equipment or working conditions;
- **goals and timetables** for barrier elimination and positive, supportive and accommodation measures. Employment equity plans, developed by the workplace parties, will set targets for each measure and say when each will be introduced and completed.
- **goals and timetables** for the composition of the workforce. Since one of the five principles of employment equity is to work towards making the workplace better reflect the community, an employment equity plan will include numerical goals for designated group member representation in different job categories.

Because the government recognizes that there are many different types of organizations and corporate cultures, and often different kinds of workplaces and workforces within a single organization, the legislation permits employers to develop more than one employment equity plan. The plans must cover all of an employer's employees and all of its workplaces, and must meet the objectives of employment equity.

Employers will file a certificate with the Employment Equity Commission after preparing a plan. The details of the certificate will be set out in the Regulation.

The Ontario Public Service, broader public sector employers with more than 50 employees and private sector firms with more than 100 employees will include on their certificates information on their plans for eliminating barriers and implementing positive, supportive and accommodation measures.

Employment equity plans of the Ontario Public Service will be filed with the Commission.

The Employment Equity Commission has the power to ask an employer to provide the Commission with a copy of its employment equity plan.

Section 13 sets out the **standard for the quality of plans** — an employment equity plan must provide **reasonable progress** towards achieving the principles of employment equity.

Section 14 describes the **standard for efforts to implement a plan.** Every employer must make **all reasonable efforts** to implement their employment equity plans and to meet the goals and timetables set out in the plans.

In **Section 15**, employers are required to review and revise their plans every three years and submit a new certificate based on that revised plan to the Commission. The details of these certificates will be set out in the Regulation. In addition, certificates of large employers must provide information on the results achieved during the previous three years.

Joint Responsibility — Working Together for Equity

Section 16 deals with joint responsibility. Bargaining agents will assist their employer in developing an employment equity plan for their workplace. According to this section, bargaining agents will participate in:

- conducting a workforce survey;
- reviewing employment policies and practices;
- preparing an employment equity plan;
- revising an employment equity plan.

Bargaining agents and employers must carry out their joint responsibilities in good faith and separately from their normal collective bargaining process.

In some workforces, there is more than one bargaining agent. In these cases, a committee will be established composed of representatives of the different bargaining agents and up to an equal number of representatives of the employer. This committee will co-ordinate the joint responsibility activities between the bargaining agents and the employer.

Bargaining agents will need information from their employer regarding the part of the workforce represented by the bargaining agent to help develop an employment equity plan. Under **Section 16,** employers will be required to provide the appropriate information. However, they will not be required to provide confidential business information that could harm the employer's competitive position.

Section 17 deals with the participation of unrepresented employees (those without a bargaining agent). These employees must be consulted by their employer about the workforce survey, the review of employment policies and practices, and developing, reviewing and revising an employment equity plan that affects those employees.

Having helped to develop an employment equity plan, employees will have access to those plans that affect them under **Section 18** of the Act. As well, employers must post in each workplace a copy of the certificate that has been filed with the Employment Equity Commission and other information that may be required by the Regulation.

Section 19 requires each employer to keep employment equity records for its workforce. **Section 20** requires every employer to submit employment equity information to the Employment Equity Commission as required under the Regulation. **Section 21** notes that the provisions of the *Freedom of Information and Protection of Privacy Act*, which give any person the right to ask for access to information in the possession of the Commission, remain in force.

Some exceptions may be made in the Regulation. **Section 22** gives regulation-making authority to apply employment equity differently in Aboriginal workplaces. Also, the rules for smaller organizations in the broader public sector and smaller firms in the private sector can be different, or these employers can be exempted from specific parts of the Act and Regulation.

Implementation — Timetables for Action

Different types of employers in Ontario will have different timetables for completing their employment equity plan.

Section 23 of the *Employment Equity Act* sets out the timetable for each group. The time begins with the "effective date" — the day Bill 79 is proclaimed as law in 1994.

Within the time period shown below, organizations must survey their workforce, review their employment policies and practices, and prepare an employment equity plan:

- Provincial government ministries and some provincial agencies will have 12 months from the effective date;
- Broader public sector employers with 10 or more employees will have 18 months;
- Private sector employers with 500 or more employees will have 18 months;
- Private sector employers with fewer than 500 but more than 100 employees will have 24 months;
- Private sector employers with more than 50 but fewer than 100 employees will have 36 months from the effective date.

Sections 23 and 24 also set out timetables for employers that did not exist on the date of proclamation or moved into a different employer category or no longer qualify for an exemption under **Section 19.**

Part IV (Sections 25 – 44):

Enforcement — Monitoring Compliance with the Act

The *Employment Equity Act* will be monitored and enforced by two bodies: the Employment Equity Commission and the Employment Equity Tribunal.

In general terms, the Commission will monitor how well employers comply with the Act and their progress towards achieving the goals and principles of employment equity. But the Commission will also have a critical role as a facilitator — a source of information and advice on putting employment equity in general and the Act in particular into effect.

The Tribunal will act as mediator and adjudicator. It will review and enforce orders of the Commission. It will adjudicate disputes about joint responsibility and respond to complaints that an employer has not lived up to its obligations under its employment equity plan. If an employer fails to comply with an order of the Tribunal, it may be prosecuted in the courts and face a fine of up to $50,000.

Employment Equity Audits

Section 25 allows the Commission to conduct an audit of an employer to see whether that employer is complying with the Act. This section describes the powers an officer of the Commission has in carrying out an audit. Those powers include entering a workplace and inspecting relevant documents and information as required.

Under **Section 26**, the Commission and an employer may try to work out a settlement if the Commission feels that improvements are needed to comply with the Act.

Failure to Comply

The Commission has the power under **Section 27** to order an employer to take certain steps if the Commission considers that:

- the employer has not done a workforce survey;
- the employer has not done an employment systems review;
- the quality of the employer's employment equity plan is inadequate or the plan is incomplete;
- the employer has not filed a certificate (or plan, if required) with the Commission;
- the employer has not consulted with its employees;
- the employer has not kept proper employment equity records;
- the employer has not posted or provided access to information as required;
- the employer has not submitted reports of other information to the Commission as required by the Regulation.

All orders of the Commission must be provided to the employer. The employer may then, within 35 days, appeal the order to the Employment Equity Tribunal, which can confirm, change or cancel it.

The Commission may also apply to the Tribunal for a ruling on whether or not an employer has fulfilled its employment equity obligations.

Section 28 says an employer will be considered not to have lived up to the terms of the Act if it:

- has not taken the steps required by its employment equity plan; or
- has failed to achieve the goals set out in that plan

unless the employer proves that

- its plan *does* comply with Part III of the Act; and
- the employer made "all reasonable efforts" to implement the plan and achieve the goals according to the timetable in the plan.

Individuals may also ask the Tribunal, under **Section 29**, to rule whether or not an employer has failed to implement an employment equity plan, or has failed to achieve goals under the plan.

In the same way, either a bargaining unit or an employer can apply to the Employment Equity Tribunal if they feel that the joint responsibilities have not been properly carried out. Or an employee may apply to the Tribunal for the same reason (**Sections 30 and 31**).

Section 32 says that the Tribunal may rule on whether or not one or more employers should be considered a single employer for the purposes of the *Employment Equity Act*. This decision might be made if the employers carry on business activities under common control or direction and have employment policies and practices under common control.

Under Section 33, no person may be intimidated, coerced, penalized or discriminated against for seeking rights under the *Employment Equity Act*. A person who has been harassed can appeal to the Tribunal to make a ruling and order a penalty, if required.

Section 34 sets out steps for temporarily stopping an application before the Tribunal if an audit of the employer is being undertaken by the Commission.

Every application that comes to the Tribunal will first be referred to an officer of the Tribunal who may attempt to bring the parties together to work out a settlement. Or the Tribunal may rule that it will not proceed on a complaint if it feels the application is not part of its jurisdiction or that the complaint is "trivial, frivolous, vexatious or made in bad faith" (**Section 35**).

Section 36 lists the parties to any application under this Part of the Act. They are the applicant, the respondent, the interested employer, the interested bargaining agent and anyone else that the Tribunal decides should be involved. The Commission may also, at its own request, be a party to any application to the Tribunal.

Orders of the Tribunal

If the Tribunal decides that a complaint is justified, it may, under **Section 37**, order that:

- an employment equity plan is to be established;
- a plan must be amended;
- an employer must create a fund to be used for employment equity purposes;
- an administrator be appointed, at the employer's expense, to help develop and implement an employment equity plan;
- a collective agreement be amended, if the Tribunal believes no other order will be sufficient to ensure that the terms of the Act are followed.

The Tribunal will have exclusive jurisdiction over its proceedings. A decision or order of the Tribunal cannot be appealed to any other body (**Section 38**).

Offences

Sections 39-44 outline what are considered offences under the Act and the possible penalties. No person may:

- knowingly provide false information on a certificate filed with the Commission;
- hinder or obstruct an employee of the Commission who is carrying out an audit or executing a legal warrant;
- intimidate, coerce, penalize or discriminate against another person who is exercising a right under the Act, or has complied with any requirement under the Act.

Any person found by a court to have committed one of these offences or who has failed to obey an order of the Employment Equity Tribunal could face a fine of as much as $50,000. **Section 44** ensures that no prosecution for such an offence will go ahead without the written consent of the Employment Equity Tribunal.

Part V (Sections 45 – 50):

Administration — The Commission and the Tribunal

The Employment Equity Commission

Sections 45-53 establish the Commission and the Tribunal and outline the role of each body in implementing and monitoring employment equity in Ontario.

The functions of the Employment Equity Commission include:

- advancing the principles of employment equity;
- monitoring implementation and the effectiveness of the Act;
- conducting research and developing policy on employment equity;
- assisting employers and employees in complying with the Act;
- educating the public.

The Commission may hold public consultations or hearings to help its work. It may appoint advisory councils for the province as a whole or on a regional basis. Each council would include representatives from business, labour and the designated groups.

The Commission may also issue policy directives to guide employers and employees in implementing employment equity. The directives will come into effect when they are published in the Ontario Gazette.

Each year, the Commission will submit a report on its activities to the Minister of Citizenship. The report will include statistics and information on the progress made toward achieving employment equity in Ontario. The Minister will, in turn, table the report before the Legislative Assembly.

The Employment Equity Tribunal

Members of the Tribunal will be selected by the Government of Ontario and may include the positions of chair and vice-chairs. The chair may appoint panels of one or more members of the Tribunal to conduct hearings as required. The Tribunal will also make rules for the conduct and management of its affairs and the procedures to be followed in its hearings.

Part VI (Sections 54, 55):

Contract Compliance and Regulations

Contract Compliance

Section 54 ensures that anyone who has a contract with the Province of Ontario or a provincial government agency will meet its obligations under the *Employment Equity Act*. Subcontractors must also follow the *Employment Equity Act*, as must people or organizations that receive grants, contributions, loans or loan guarantees from the Government or its agencies. If the Employment Equity Commission rules that these parties have not complied, any contract, loan or loan guarantee can be cancelled, and the Province may refuse to make any further contracts or loans with the offending party.

Regulations

Section 55 gives the Government power to make regulations relating to the *Employment Equity Act*. It lists areas in which regulations may be made as necessary. The regulations form the details of the rules and directions set out in the Act.

The Regulation will include such things as:

- definitions of the designated groups;
- how to conduct a workforce survey;
- details on what elements must be included in an Employment Systems Review;
- processes for including bargaining agents and non-unionized employees in the employment equity process;
- the elements of an Employment Equity Plan;
- requirements for certificates, reports and other information required under the Act.

The Regulation will come into effect after Proclamation of the Act. Additional regulations may be developed later, as required.

Part VII (Sections 56 – 59):

Consequential Amendments and Review

The *Employment Equity Act* and the *Human Rights Code*

Section 56 amends the Ontario *Human Rights Code.*

Individuals who believe they have been discriminated against by an employer will maintain their right to have the case considered under the *Human Rights Code* and for a Board of Inquiry to order a remedy, if it feels one is needed. The *Human Rights Code* will be amended to say that no rights under the *Code* will be infringed because positive measures or numerical goals in an employment equity plan are restricted to members of the designated groups.

If a Board of Inquiry rules that a remedy is needed, the board can take into account the cost of implementing an employment equity plan so that the remedy does not result in undue hardship for the employer.

The section also ensures that a Board of Inquiry under the *Human Rights Code* cannot amend an employment equity plan, though it may order action to be taken in addition to a plan. This will give greater certainty to employers, bargaining agents and employees in developing employment equity plans.

Reviewing the *Employment Equity Act*

Section 57 calls for a committee of the Legislative Assembly to undertake a comprehensive review of the Act and its regulations within five years of proclamation and that recommendations for improvements be made as necessary.

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